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FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY
THE SECRETARY - ROOM 222

14 APR 1993

IN REPLY REFER TO:
7330-7/1700A3

Honorable Max Baucus
United States Senator
202 Fratt Building
2817 - 2nd Avenue North
Billings, Montana 59101

Dear Senator Baucus:

This is in reply to your letter of February 19, 1993, in which you inquired on behalf of your constituent, Jerald L. Howard of A & R Communications, regarding the effect of Commission activities on small business.

The first action mentioned in Mr. Howard's letter is the Notice of Proposed Rule Making (Notice) in PR Docket No. 92-235, 57 FR 54034 (1992). That Notice proposes comprehensive changes to the Commission's Rules governing the private land mobile radio services operating in the frequency bands below 512 MHz.

Those rules have been in place for over 20 years. While they have been amended on numerous occasions since that time, they nonetheless embody regulatory concepts based on yesteryear's technology and, unless changed, will stifle the growth and development of private land mobile radio technology and services, which are used primarily by local governments, public safety entities, and businesses to enhance their productivity. The Commission issued the Notice, therefore, to solicit comment from all interested persons on a wide variety of proposals designed to increase channel capacity, to promote more efficient use of these channels, and to simplify the rules governing use of these channels.

The proposals in the Notice reflect to a large extent concepts and proposals submitted in the initial inquiry stages of this proceeding. None of the proposals set forth in the Notice, however, are engraved in stone. We are, of course, sensitive to the concerns of users of private land mobile radio spectrum and the impact that these proposals may have on their radio systems, including the costs of required modifications. Our proposals would allow all equipment to be used for its normal lifespan.

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Honorable Max Baucus

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We will, therefore, take into careful consideration all their comments. Your constituent's concerns will be fully evaluated when we develop final rules in this proceeding. As indicated in the Notice, we remain convinced that without significant regulatory change in radio operations in the bands below 512 MHz, the quality of communications in the private land mobile radio services will continue to deteriorate to the point of endangering public safety and the national economy.

We want to thank you for your interest in these matters.

Sincerely,

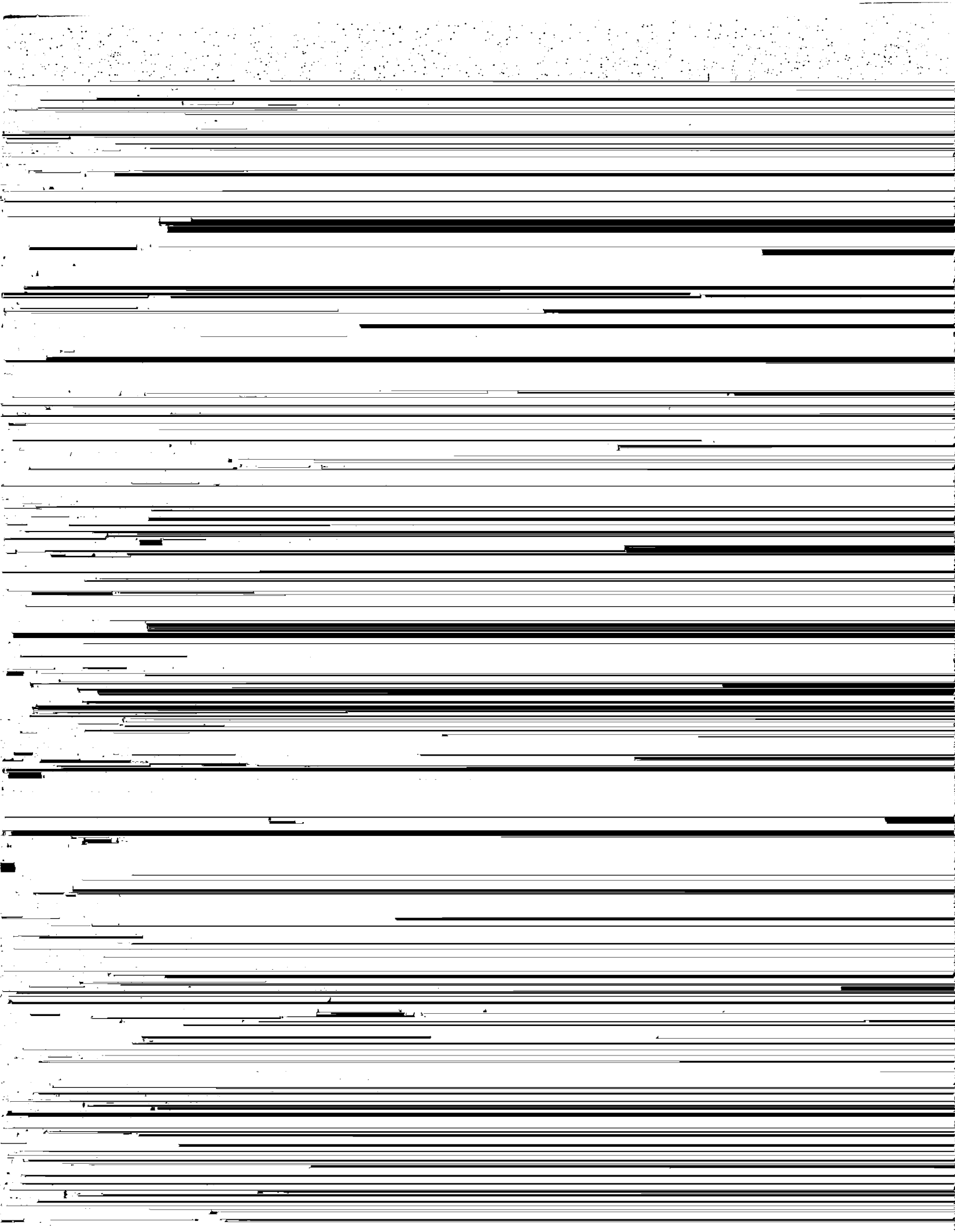
Edward R. Jacobs

for

Richard J. Shiben
Chief, Land Mobile & Microwave Division
Private Radio Bureau

Enclosure:
Notice

Congressional



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It is with sincerity I hope you had a good holiday season.

I did too, as I watched more of my business being eroded by the holiday spending coupled with the innovations of technology and the legislative action of late.

Let me say first that I was quite pleased when you were elected to the office. I was certain that economic interests in Montana, especially those in eastern Montana, would have a positive and effective representation in the Congress. Now I am having some very serious reconsiderations, as are many others. I will address some of these issues with the hope you may take some action to provide some manner of positive future

One may well reference "alternative services" such as cellular or SMR. This would be a natural response of someone either very unknowledgeable of the situation or quite biased in their thinking. This brings us around to the other issues I want to address to you. Because the communications industry has become so multi-faceted with the advent of new technologies, and because government has involved itself so deeply therein, there are many aspects that I believe bear your and others' consideration. The ultimate outcome of many of these issues will spell the future of myself and many others in similar situations. I will use my situation and business as the example in the following presentation of issues, but bear in mind that I am definitely not by myself.

Service to the user is a major consideration. Cellular and SMR type services work fine and provide a quality service to users in areas of higher population density, and subsequently a favorable return to the owner of the business. The concept of that segment of the industry is to blanket the country via the interstate highway system with its service, with a primary concentration on the areas of higher population density. You should know very well what this means in Montana - a lot of unserved areas. This is where the small RCC service like mine comes in to fill the bill.

Due to the technical way cellular systems function, their service has a very limited area of coverage when compared to systems of the kind I have. A cellular station may cover an area 20-30 miles in radius. A system like mine will provide service in an area 50-75 miles in radius. Cellular systems can be found at intervals of 100-150 miles - sometimes less, most times more. Generally, services like mine have been established years ago with spacings of 75-100 miles. It is clear which service will provide the better service to customers, especially in this area of the country.

The FCC, in its infinite wisdom, has chosen a method of questionable integrity and ethics for the dispensing of cellular licenses. In essence, the only entities that could obtain the licenses were those which had a very considerable financial backing of some sort initially, and speculation on marketing the license in the future was their ultimate consideration. Don't misunderstand me to think I or others wanted one of these licenses. The point here is two-fold:

1. These license holders had an initially unfair advantage in the requirement of establishing service with the license in that due to their financial base they did not have to consider returns on investment in obtaining financing or the costs of installation.

2. In maintaining the operation after installation, due to the speculative nature of the situation, operation at a loss was an acceptable mode of business.

So, essentially, these entities of the cellular aspect of the industry are being able to provide poorer quality service on a competitive basis with businesses like mine while enjoying a marked financial advantage bestowed upon them by FCC and governmental rules and regulations.

There are some other facts that need to be pointed out that provide a VERY unfair advantage to the cellular services over the RCC services such as mine. They are:

The legislation recently enacted that will outlaw radio scanners that will cover the frequencies used by cellular service. What this does is effectively afford the aspect of "private & confidential communications" to cellular service, leaving RCC service at a very distinct user-marketing disadvantage. I and others feel this is very unfair! If such action can be taken for one service, it should be made to cover the services such as mine.

Bundling has been ruled illegal. In case you are unfamiliar with this term, it is the practice of selling to the user equipment required to utilize the service at below production or normal market costs, and then charging service rates and charges to make up the loss. Most often the user is locked in with a long term service contract.

fact along with the fact they have invested money in a piece of equipment holds them as a captive customer of the cellular entity. This piece is used in one form or another a lot, and several instances I know personally.

The involvement of Rural Telephone Cooperatives in the cellular market presents a blatant example of unfair competition. These coop's are backed with REA monies at very LOW interest rates. I as an RCC service provider must operate with money borrowed at the regular lending rate. Is this fair